

REMARKS

Claims 1-20 are pending in the present application. Claim 2 was rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. Claims 1, 2, 12, 15, 16, 18 and 20 were rejected under 35 U.S.C. §102(e) as being anticipated by Jacobs et al., U.S. Patent No. 6,736,536. Claims 1, 2, 4, 7, 8, 12-17, 19 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Burke et al., U.S. Patent No. 4,550,602, in view of Thomas (FR 2543676 A1). Claims 1, 3, 5, 6 and 9 were rejected under 35 U.S.C. §103(a) as being unpatentable over Goertzen, U.S. Patent App. Pub. 2003/0192468, in view of Hanlon, U.S. Patent No. 6,244,456. Claims 10 and 11 were indicated as being allowable if rewritten in independent form.

Claims 1 and 10 have been amended. Claims 2 and 20 have been canceled. New claims 21 and 22 have been added. Reconsideration of the application is respectfully requested.

Supplemental Information Disclosure Statement

A supplemental information disclosure statement including Form PTO-1449 is submitted herewith for the Examiner's consideration.

Amendments to the specification

The specification has been amended to clarify that liquid may be added to the container to make the container only partially full, replacing "total filling quantity" with "total fluid quantity" and thereby also matching the language used in the claims as amended. Support for the amendments may be found, for example, at paragraphs [0007] and [0016] of the specification. It is respectfully submitted that no new matter has been added.

Amendments to claim 1

Independent claim 1 has been amended to recite that the vessel includes "a filling scale," and the scale element includes "a total quantity scale corresponding to the filling scale, the total quantity scale including a total fluid quantity indication of a fluid quantity greater than a total volume of the vessel." Support for this amendment may be found, for example, at paragraphs [0007] and [0016] of the specification and in Fig. 1. It is respectfully submitted that no new matter has been added.

Rejection under 35 U.S.C. §112, first paragraph

Claim 2 was rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. The Examiner has indicated that in claim 2 the limitation “wherein the total filling quantity is larger than a total volume of the vessel” is not clear since once a container is filled to its total volume, it cannot be filled more. Claim 2 has now been canceled.

Withdrawal of the rejection of claim 2 under 35 U.S.C. §112, first paragraph, is respectfully requested.

Rejections under 35 U.S.C. §102(e), §103(a)

Claims 1, 2, 12, 15, 16, 18 and 20 were rejected under 35 U.S.C. §102(e) as being anticipated by Jacobs et al., U.S. Patent No. 6,736,536. Claims 1, 2, 4, 7, 8, 12-17, 19 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Burke et al., U.S. Patent No. 4,550,602, in view of Thomas (FR 2543676 A1). Claims 1, 3, 5, 6 and 9 were rejected under 35 U.S.C. §103(a) as being unpatentable over Goertzen, U.S. Patent App. Pub. 2003/0192468, in view of Hanlon, U.S. Patent No. 6,244,456.

Jacobs et al. describes a container for mixing fluids in first and second chambers 14, 30, where a divider 44 separating the chambers is removed to mix the fluids. See Abstract and Fig. 1. The chambers may have fluid volume indicator scales. See col. 4, lines 5-12.

Burke et al. describes a device 10 for visually citing the level of a liquid or solid material 14 in a container 16, the container having measurement lines 19 disposed on a sidewall for measuring the volume of the material 14 in the container. See col. 4, lines 36-45.

Thomas, as understood, shows a liquid level position indicator having a magnet 10. See Fig. 1.

Goertzen describes a container having an elastic o-ring 10 for indicating a time, day, date or dose. See Abstract and Fig. 3.

Hanlon describes a beverage container having a member 26 attached to a container 10 by magnetic means. See col. 3, lines 61-64.

Independent claim 1, as amended, recites a fluid container including a vessel having "a filling scale" and a scale element including "a total quantity scale corresponding to the filling scale, the total quantity scale including a total fluid quantity indication of a fluid quantity greater than a total volume of the vessel." It is respectfully submitted that none of Jacobs et al., Burke et al., Thomas, Goertzen or Hanlon teach or suggest a total quantity scale corresponding to the filling scale, the total quantity scale including a total fluid quantity indication of a fluid quantity greater than a total volume of the vessel," as now recited in claim 1. In contrast, the fluid volume indicator scales on the chambers 14, 30 of Jacobs et al. merely indicate a volume of fluid in the respective chamber, and do not have a total quantity scale corresponding to the filling scale and including an indication of a fluid quantity greater than a total volume of the vessel, as recited in claim 1. Regarding Burke et al., the measurement lines 19 disposed on a sidewall of the container 16 merely show the volume of the material 14 in the container, and are not a total quantity scale corresponding to the filling scale and including an indication of a fluid quantity greater than a total volume of the vessel, as recited in claim 1. Regarding Thomas, the liquid level position indicator having a magnet 10 merely shows a liquid level in a container, and is not a total quantity scale corresponding to the filling scale and including an indication of a fluid quantity greater than a total volume of the vessel, as recited in claim 1. Regarding Goertzen, the elastic o-ring 10 indicates a time, day, date or dose, and is not a total quantity scale corresponding to the filling scale and including an indication of a fluid quantity greater than a total volume of the vessel, as recited in claim 1. Regarding Hanlon, the member 26 attached to a container 10 provides no indication of fluid quantity at all, much less an indication of a fluid quantity greater than a total volume of the vessel, as recited in claim 1.

Because all of Jacobs et al., Burke et al., Thomas, Goertzen and Hanlon are missing at least the above-recited features of independent claim 1, these references cannot anticipate claim 1 or its dependent claims, nor can any combination of these references, to the extent proper, render any of claim 1 or its dependent claims obvious.

Withdrawal of the respective rejections of claims 1, 2, 12, 15, 16, 18 and 20, under 35

U.S.C. §102(e) based on Jacobs et al., of claims 1, 2, 4, 7, 8, 12-17, 19 and 20 under 35
U.S.C. §103(a) based on Burke et al. in view of Thomas, and of claims 1, 3, 5, 6 and 9 under
35 U.S.C. §103(a) based on Goertzen in view of Hanlon, is respectfully requested.

Allowable subject matter

Claims 10 and 11 were indicated as being allowable if rewritten in independent form.
Applicant gratefully acknowledges this indication of allowability and has presented new
claim 21 reciting, in independent form, the limitations of original claim 11.

New claim 22

New claim 22 has been added reciting a method for indicating a total quantity of fluid
including limitations of claim 1 as amended, as well as additional limitations. Support for
new claim 22 may be found, for example, at paragraphs [0007] and [0016] of the
specification. It is respectfully submitted that no new matter has been added. It is respectfully
submitted that new claim 22 is patentable over the cited references.

CONCLUSION

It is respectfully submitted that the application is now in condition for allowance.

Respectfully submitted,

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